

DRAFT UTILITY VEGETATION MANAGEMENT ORDINANCE

30-12-1.8 UTILITY VEGETATION MANAGEMENT

30-12-1.8.1 *PURPOSE AND INTENT*

- (a) The purpose of sections 30-12-1.8 through 30-12-1.14 of this Ordinance is to establish guidelines for the routine trimming, pruning, cutting and removal by utility companies of trees and vegetation (sometimes referred to herein as “vegetation maintenance” or “vegetation management”) on public streets or rights-of-way, City-owned or controlled property, and private property within the City limits and to encourage the promotion of an urban tree canopy on property within the City limits by ensuring the following:
- a. That the Public safety is protected from any and all trees, limbs and shrubbery which threaten life and property.
 - b. That the integrity, structural or otherwise, of individual trees within the City’s tree canopy is preserved and retained.
 - c. That the detrimental impact to individual trees within the City’s tree canopy is kept to a minimum by virtue of vegetation maintenance activities in accordance with the most reasonable, environmentally safe, and approved International Society of Arborist (ISA) arboricultural practices under the circumstances.
 - d. That communication with respect to vegetation management is enhanced between utility companies, on one hand, and the City, communities and owners or residents of any occupied public or private property (“Occupied Property”), on the other hand.
 - e. That maintained or landscaped, occupied public or private property (referred to hereinafter as “Occupied Maintained Property”) receive certain protections with respect to the removal of trees from those properties.
 - f. That the provision of safe and reliable overhead utility service is promoted.
 - g. That overhead utilities are protected while decreasing the potential for service interruptions.

30-12-1.8.2 *DUTIES OF URBAN FORESTER*

For the purposes of carrying out the provisions of sections 30-12-1.8 through 30-12--1.14 of this Ordinance, the Urban Forester shall be the responsible party to oversee and coordinate utility vegetation management activities on all trees and vegetation growing within the City limits and the planting, removal, care, maintenance, and protection thereof. The Urban Forester shall advise on all City-initiated construction projects in an effort to plan for and manage the City’s vegetative resources.

30-12-1.8.3 *EXCEPTIONS*

Although it is anticipated that the bulk of utility vegetation maintenance that will occur within the City will be of a routine nature that is governed by the provisions of sections 30-12-1.8 through 30-12--1.14 of this Ordinance, there are certain limited types of vegetation maintenance, as set forth below, that are excepted from coverage under sections 30-12-1.8 through 30-12--1.14 of this Ordinance:

- (a) Although sections 30-12-1.8 through 30-12--1.14 of this Ordinance apply to overhead electrical distribution lines, said sections do not apply to nor prohibit vegetation management activities pertaining to: (i) electrical transmission lines, or (ii) underground electrical distribution lines.
- (b) Sections 30-12-1.8 through 30-12--1.14 of this Ordinance do not apply to nor prohibit vegetation management activities pertaining to non-routine vegetation management which includes, without limitation, customer requested work (such as construction projects where new service lines are requested or projects where lines need to be relocated or extended), maintenance of overhead facilities (such as changing out transformers, other pole-mounted equipment or damaged or rotten poles), North Carolina Department of Transportation related work, addressing public safety incidents, or restoring the utility service following emergencies or any other unanticipated interruption or outage.
- (c) Sections 30-12-1.8 through 30-12--1.14 of this Ordinance shall not apply to nor prohibit the vegetation maintenance of any tree or shrub on public or private property within the City limits, if such vegetation maintenance is done in order to repair or replace the same as a result of damage or deterioration as a result of accident, casualty, or natural elements such as wind, rain, ice, electrical storm, or the like.

30-12-1.8.4 *LEGALITY OF CHAPTER OR PARTS THEREOF*

Should any section, clause or provision of sections 30-12-1.8 through 30-12--1.14 of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of any other provision of sections 30-12-1.8 through 30-12--1.14 of this Ordinance.

30-12-1.8.5 *VIOLATIONS; STOP WORK ORDERS*

If a utility does not comply with sections 30-12-1.8 through 30-12--1.14 of this Ordinance, then the Urban Forester is authorized to issue a stop work order to the utility.

30-12-1.9 VEGETATION MANAGEMENT PLANNING

30-12-1.9.1 *ANNUAL VEGETATION MANAGEMENT PLAN*

- (a) Each utility company shall submit an annual vegetative management plan to the City's Urban Forester on or before January 1st of each year prior to the start of any overhead utility vegetation maintenance activities within the City limits or upon any City-owned or controlled property, which vegetative management plan shall: (i) depict the general areas involved in the maintenance plan, and (ii) set forth the maintenance schedule for vegetation line maintenance within the City's limits. If the vegetative management plan is timely submitted and the vegetative management plan sets forth the information required in this sub-section, then the vegetative management plan shall be accepted within 10 business days following the submission of it to the City.
- (b) If a utility company desires to amend its vegetative management plan at any time during the year, the utility company shall submit an amended annual vegetative management plan to the City's Urban Forester, which amended vegetative management plan shall: (i) depict the general areas involved in the maintenance plan, and (ii) set forth the maintenance schedule for vegetation line maintenance within the City's limits. If the amended vegetative management plan sets forth the information required in this sub-section, then the amended vegetative management plan shall be accepted within 10 business days following the submission of it to the City.

30-12-1.9.2 *OPERATIONAL PLAN*

- (a) If a utility desires to perform vegetation maintenance within the City limits or upon any City-owned or controlled property, then the utility company shall obtain the acceptance of an operational plan before commencing any such desired vegetation maintenance. After the submission of an annual vegetative management plan, each utility company shall submit an operational plan to the City's Urban Forester depicting in specific detail the circuits, locations, and timing involved in the line maintenance 60 days prior to commencement of work, unless a shorter period of time is mutually agreed upon by the City and the utility company. In connection with the submission of the operational plan to the City's Urban Forester, it is required that there be a meeting between the utility company and the City's Urban Forester for the purpose of reviewing the operational plan before it is accepted. If the operational plan is timely submitted, the aforementioned meeting occurs, and the operational plan sets forth specific detail required in this sub-section, then the operational plan shall be accepted within 10 business days following the submission of it to the City.
- (b) If a utility company desires to amend its operational plan at any time during the year, the utility company shall submit an amended operational plan to the City's Urban Forester depicting in specific detail the circuits, locations, and timing involved in the line maintenance 60 days prior to commencement of

work, unless a shorter period of time is mutually agreed upon by the City and the utility company. In connection with the submission of the amended operational plan to the City's Urban Forester, it is required that there be a meeting between the utility company and the City's Urban Forester for the purpose of reviewing the amended operational plan before it is accepted. If the amended operational plan is timely submitted, the aforementioned meeting occurs, and the amended operational plan sets forth specific detail required in this sub-section, then the amended operational plan shall be accepted within 10 business days following the submission of it to the City.

30-12-1.10 VEGETATION MANAGEMENT COMMUNICATION

30-12-1.10.1 *COMMUNICATION BETWEEN CITY AND UTILITIES*

Each utility company shall communicate with the City regarding vegetation maintenance as required herein in connection with the annual vegetative maintenance plan, the operational plan, and the vegetation maintenance annual review.

30-12-1.10.2 *COMMUNICATION BETWEEN COMMUNITIES AND UTILITIES*

(a) Community Notification

The utility company shall notify an applicable community, neighborhood association or homeowner's association, if any, to the extent one reasonably can be identified, which potentially might be impacted by the vegetation maintenance activity at least 45 days prior to the date vegetation maintenance is to commence. Said notice shall also include information on how to request a community information session if desired. This sub-section shall be satisfied if notification is accomplished by means which include, without limitation, any of the following: (i) door hangers; (ii) automated outbound telephone calling; or (iii) the posting of information on the City of Greensboro's official website.

(b) Community Information Session

The utility company shall make reasonable efforts to hold and attend any requested community information session in a reasonable location that shall be made available through the assistance of the City. The community information session shall occur at least 30 days prior to the date vegetation maintenance activities are to commence unless the timing of the request reasonably requires a shorter time period. A community information session may consist of information stations staffed by subject matter experts, and citizens may address comments or questions to those representatives of the utility company who are attending the community information session.

30-12-1.10.3 COMMUNICATION BETWEEN UTILITIES AND OWNERS OR RESIDENTS OF OCCUPIED PROPERTY

(a) Notification To Owners Or Residents Of Occupied Property

Prior to the performance of vegetation maintenance by a utility on Occupied Property, the utility shall make reasonable efforts to provide prior notification of such activities to the owner or resident of Occupied Property. Such prior notification may include, but is not limited to, any of the following methods: (i) door hangers; (ii) automated outbound telephone calling; or (iii) the posting of information on the City of Greensboro's official website. Such prior notification shall be attempted at least 7 calendar days prior to the date that the vegetation maintenance is scheduled to commence, unless circumstances reasonably require a shorter time period.

(b) Meeting With Owners Or Residents Of Occupied Property

If an owner or resident of Occupied Property requests a meeting with a utility regarding vegetation maintenance that is to occur on said property, then the utility shall make reasonable efforts to meet with the owner or resident of said property to discuss which trees will be impacted and which methods will be utilized by the utility in connection with the vegetation maintenance.

(c) Provision of Authority

If an owner or resident of Occupied Property so requests, a utility subject to the jurisdiction of the North Carolina Utilities Commission shall provide a copy of written authority to perform vegetation maintenance on the property. Acceptable written authority may include, but not be limited to, pertinent service regulations on file with the North Carolina Utilities Commission.

30-12-1.11 VEGETATION MANAGEMENT STANDARDS, REQUIREMENTS AND PROHIBITED PRACTICES

30-12-1.11.1 METHODS OF PRUNING, TRIMMING AND CUTTING; PROHIBITED PRACTICES

- (a) To the extent the utility files a vegetative management plan with the North Carolina Utilities Commission, then the vegetative management plan and any revisions to the vegetation management plan required by the North Carolina Utilities Commission shall constitute the standards to be adhered to by the

utility when performing vegetation management activities within the City limits.

(b) Regardless of whether a utility files a vegetative management plan with the North Carolina Utilities Commission, a utility shall comply with the following in connection with any vegetation maintenance within the City limits:

- a. Vegetation maintenance shall be done using the “ANSI A300 method” (part 1) BMP manual compiled by the International Society of Arboriculture, and subsequent revisions.
- b. Topping and rounding over of trees is prohibited.
- c. Climbing irons, spurs, or spikes are not to be used unless in accordance with the ANSI A300 standard.
- d. The use of “tree paint”, “wound dressing”, and the like is not recommended.
- e. Under normal circumstances, no more than one-fourth (1/4) of a tree’s crown shall be removed per year. If reduction of more than one-fourth (1/4) or twenty-five percent (25%) of a tree’s crown is needed for safety and reliability clearances, or if the tree is otherwise a danger tree, the tree should be evaluated by the utility company for removal. The term danger tree, as it is used in sections 30-12-1.8 through 30-12--1.14 of this Ordinance, means a tree that has the potential of adversely impacting utility service by falling into a utility line as a result of being cut, blown into, or otherwise falling, by virtue of its physical condition.
- f. When virulent disease is prevalent, as per written notification of the Urban Forester, the Urban Forester will work with the utility to develop a reasonable plan to properly prune or remove the subject tree. This plan will be designed to prevent the spread of disease as a result of line clearance activities.
- g. For the removal of a limb the triple cut method shall be used if there is a possibility that the limb may tear out from the trunk if a single cut is made.
- h. Utility companies shall use natural pruning which requires all cuts to be made at laterals (limb junctions). These lateral limbs shall be no less than one-third (1/3) the diameter of the limb removed at the point of removal.
- i. Limbs shall be pruned back to an appropriate new leader, heading away or around the lines. In no circumstances are stubs or abruptly pruned limbs to be left by the pruning.
- j. No obvious “hangers” shall be left in the trees after performing line clearance activities.

30-12-1.11.2 DETERMINATIONS BY UTILITY COMPANIES THAT A TREE IS TO BE REMOVED; APPEAL PROCESS

- a. Nothing in this subsection shall be construed to preclude, prevent, or impair any property owner, resident, the City or utility from pursuing

its legal remedies before the North Carolina Utilities Commission or from requesting the assistance of the Public Staff of the North Carolina Utilities Commission formally or informally at any time pursuant to the procedures set forth by those agencies.

- b. If a utility company determines that a tree must be removed in its entirety from Occupied Maintained Property within the City limits, then the utility company shall make reasonable efforts to seek the consent of the owner or resident of the Occupied Maintained Property. Reasonable efforts by a utility company to seek the consent of the owner or resident of the Occupied Maintained Property may include any of the following, without limitation: (i) a request for consent to remove a tree set forth on a door hanger; (ii) a request for consent to remove a tree made in a communication with said owner or resident; (iii) a request for consent to remove a tree set forth in a message left on the answering machine or voicemail of said owner or resident; (iv) a request for consent to remove a tree set forth in a letter served by mail to said owner or resident; (v) a request for consent to remove a tree made during a meeting with said owner or resident on the affected property; or (vi) a request for consent to remove a tree served by email to said owner or resident. If an owner or resident of Occupied Maintained Property expresses verbally or in writing to the utility company that said owner or resident does not consent to the tree removal intended by the utility company, then the utility company shall not remove the subject tree unless permitted to do so by the Urban Forester or the North Carolina Utilities Commission or through resolution of the matter through the involvement of the Consumer Services Division of the Public Staff of the North Carolina Utilities Commission, as provided for herein below.
- c. If: (i) an owner or resident of the Occupied Maintained Property expresses in writing or verbally that said owner or resident does not consent to removal of the tree desired to be removed by the utility company, or (ii) said owner or resident fails to express verbally or in writing a position with respect to consent within 5 business days of when the utility company first made its reasonable efforts to seek consent, unless a shorter time is reasonably necessary in light of the immediate danger and/or interference to the overhead utility lines posed by the subject tree; then, in either situation, the utility company may request that the Urban Forester issue a written determination as to whether a tree in dispute on public or private property shall be removed, and the following shall govern the process and determination by the Urban Forester:
 - a. The Urban Forester shall rule that the tree in dispute shall be removed if the Urban Forester determines that the tree is a danger tree as defined above in section 30-12-1.11.1(b)e.
 - b. The utility company shall serve a written request for determination to the Urban Forester (the "Written Request for

Determination to the Urban Forester”), which Written Request for Determination to the Urban Forester may be a letter or email addressed to the Urban Forester, and which written request for determination shall include at least the following:

- i. The address of the property where the tree in dispute is located;
 - ii. A reasonable identification of the tree in dispute;
 - iii. The approximate date that the utility company communicated to the owner or resident of the Occupied Maintained Property that the tree had been determined to be required to be removed;
 - iv. The approximate date that the owner or resident of the Occupied Maintained Property communicated that consent for removal was not being provided, if any such communication was made.
- c. Within 5 business days of the request by the utility company, unless a shorter time is reasonably necessary in light of the immediate danger and/or interference to the overhead utility lines posed by the subject tree, the Urban Forester shall conduct a meeting with the owner or resident of the Occupied Maintained Property and utility company at the property where the tree in dispute is located. The date and time of the meeting shall be determined by and communicated by the Urban Forester by telephone or by written notice served by mail, email or hand-delivery. At the meeting, the utility company may explain why the tree in dispute should be removed and the owner or the resident of the Occupied Maintained Property may explain why the tree should not be removed.
- d. Regardless of when a meeting is conducted or whether a meeting actually is conducted, the Urban Forester shall make a written determination of whether the tree in dispute shall be removed within 5 business days of service of the initial Written Request for Determination to the Urban Forester (the “5 Day Deadline for the Urban Forester to Make a Determination”).
- e. A written determination by the Urban Forester (the “Written Determination of the Urban Forester”) shall be served by mail, email or hand-delivery to the owner or resident of the Occupied Maintained Property and the utility company, and the Written Determination of the Urban Forester shall include at least the following:
 - i. The address of the property where the tree in dispute is located;
 - ii. A reasonable description of the tree in dispute;
 - iii. The names of the owner or resident of the Occupied Maintained Property and the utility company involved in the tree removal dispute;

- iv. The date of the meeting at the property. If a meeting was not conducted, then the Urban Forester shall briefly explain why a meeting was not conducted.
 - v. A written statement that the tree in dispute shall or shall not be removed.
- f. If an owner or resident of the Occupied Maintained Property or a utility company desires to appeal the Written Determination of the Urban Forester, then the appealing party may file a formal complaint with the North Carolina Utilities Commission pursuant to G.S. §62-73 or G.S. §62-74. Complaints to the North Carolina Utilities Commission may be addressed to the Chief Clerk, North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, NC 27699-4325. Prior to filing a formal complaint with the North Carolina Utilities Commission, said party may request informal resolution of the issue through the involvement of the Consumer Services Division of the Public Staff of the North Carolina Utilities Commission. If said owner or resident appealing an adverse Written Determination of the Urban Forester does not file said formal complaint with the North Carolina Utilities Commission or, in the alternative, request informal resolution of the issue through the involvement of the Public Staff of the North Carolina Utilities Commission within seven (7) business days of service of the Written Determination of the Urban Forester, the utility may proceed to remove the tree in question.
- g. If a party opts to request informal resolution of the issue through the involvement of the Public Staff of the North Carolina Utilities Commission, such request shall be served on the Consumer Services Division of the Public Staff of the North Carolina Utilities Commission and the adverse party (i.e., the utility company or the property owner) within 7 business days of the service of the Written Determination of the Urban Forester. Service on the Consumer Services Division of the Public Staff of the North Carolina Utilities Commission may be made by using any of the following: the mailing address of Public Staff, Consumer Services Division, 4326 Mail Service Center, Raleigh, North Carolina 27699; the fax number of (919) 733-4744; or the email address of consumer.services@psncuc.nc.gov. The request for informal resolution to the Consumer Services Division of the Public Staff of the North Carolina Utilities Commission shall include at least the following:
 - i. A clear statement that the appealing party is seeking review by and assistance from the Public Staff of the

North Carolina Utilities Commission with respect to the Written Determination of the Urban Forester.

- ii. A copy of the Written Determination of the Urban Forester.
- iii. Contact information for the party sending the Written Appeal to the Public Staff of the North Carolina Utilities Commission (name, address, telephone number, email if available).
- h. If the involvement of the Consumer Services Division of the Public Staff of the North Carolina Utilities Commission does not result in resolution of the issue in a manner that is satisfactory to the owner, resident, or utility, then said party may file a formal complaint with the North Carolina Utilities Commission pursuant G.S. § 62-73 or G.S. § 62-74 and the North Carolina Utilities Commission's rules and regulations. If said complaint is not filed at the North Carolina Utilities Commission within seven (7) business days of the conclusion of the Public Staff's involvement, the utility may proceed to remove the tree in question.
- i. If the utility company desires to appeal the failure of the Urban Forester to rule within the 5 Day Deadline for the Urban Forester to Make a Determination, then the utility may file an expedited, formal complaint to the North Carolina Utilities Commission pursuant to G.S. § 62-74.
- j. With respect to all written documents served in this section 30-12-1.11.2:
 - i. In addition to service upon the Urban Forester, the North Carolina Utilities Commission, or the Consumer Services Division of the Public Staff of the North Carolina Utilities Commission, when applicable, service of said written documents shall be contemporaneously made upon the adverse party (i.e., the owner or resident of the Occupied Maintained Property or the utility company).
 - ii. Service by mail of a written document shall be complete upon deposit of the paper enclosed in a post-paid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service.
 - iii. Service by email of a written document shall be complete upon the act of sending the electronic correspondence to a proper address regularly used by the recipient of the electronic correspondence.
 - iv. Service by fax shall be complete upon the sending of a written document to the intended recipient by a confirmed fax transmission to a proper fax number

regularly used by the recipient of the fax transmission, as further evidenced by a fax receipt confirmation.

- v. Service by hand-delivery of the written document shall be complete upon handing it to the following when applicable:

1. The owner or resident of the Occupied Maintained Property;
2. A representative of the utility company who is involved in the subject tree dispute;
3. The Urban Forester.

30-12-1.12 SUPERVISION AND OVERSIGHT OF CONTRACTORS

Any utility company desiring to engage in vegetation maintenance operations on public streets or rights-of-way, City-owned or controlled property, and private property within the City limits shall be responsible for oversight of its contractors in the performance of all work and will ensure that contractors adhere to ordinance provisions and proper vegetation maintenance practices. As part of the Operational Plan, the utility will identify a certified arborist for each project who will be involved in the oversight of the crews and serve as a primary contact to the Urban Forester and owner or resident of Occupied Property.

30-12-1.13 VEGETATION MANAGEMENT CLEAN-UP

30-12-1.13.1

All debris from vegetation maintenance shall be cleaned up each day, or within a reasonable amount of time, as described below, unless permission is given by the Urban Forester or owner or resident of the Occupied Property to do otherwise. The clean-up required by this sub-section includes the following:

- (a) Impacted lawn areas shall be cleaned of debris.
- (b) Impacted streets and sidewalks shall be cleaned of debris.
- (c) All brush (having a diameter of 6 inches or less), branches and logs shall be dealt with as follows:
 - a. In landscaped and maintained areas, brush shall be chipped and removed from the site. When feasible and agreed to by the owner or resident of the Occupied Maintained Property and the utility company, this brush may be blown into an area either within the right of way or adjacent to the right of way corridor. Larger wood, which belongs to the owner or resident of the Occupied Maintained Property, shall be cut into manageable lengths and stacked neatly at the base of the tree. Provided, however, wood or brush cut down from dead or dying trees shall be stacked neatly at the base of the tree, and there is no requirement that such brush be chipped due to safety concerns.

- b. In non-maintained areas, trees and limbs shall be cut, left on site, and windrowed along the edge of the right of way. Brush shall be brush hogged when the site and terrain reasonably allows for it. If the terrain does not reasonably allow the use of mechanized equipment, the trees and limbs may be manually hashed down and left to bio-degrade naturally.

30-12-1.13.2

If an owner or resident of Occupied Maintained Property requests information on options for grinding any stumps resulting from vegetation maintenance operations, it shall be the responsibility of the utility to provide owner or resident of the Occupied Maintained Property with such information.

30-12-1.14 VEGETATION MANAGEMENT ANNUAL REVIEW

In January of each calendar year, each utility that conducted vegetation management activities during the prior calendar year shall meet with the City's Urban Forester in order to review the tree pruning, trimming and cutting that had been conducted and to discuss each of the following: (i) the challenges and problems experienced by the City of Greensboro; (ii) the challenges and problems experienced by the utility; (iii) the successes experienced by the City of Greensboro; (iv) the successes experienced by the utility; and (v) what the City of Greensboro and the utility can try to do differently in an effort to enhance future communication, execution of future tree pruning, trimming and cutting and opportunities to continue to promote the enhancement of the urban tree canopy.